



LTAP news

What Does Bridge Inspection Frequency and Compliance Mean to You?

By Debbie Lehmann P.E. FHWA Washington Division Office and WSDOT H&LP Staff

In 2011, the FHWA implemented a new oversight process of the National Bridge Inspection Program. This program included the implementation of 23 Metrics to ensure consistency in the oversight process in accordance with federal regulations. The Metrics include a wide variety of oversight including inventory upkeep, qualifications of inspectors, inspection frequencies and procedures, bridge files, type of inspection procedures, scour documentation, and quality control and quality assurance procedures.

Based on FHWA's review of the inspection frequency requirements contained in the metrics over the last couple of years, it appears that there has been some confusion in the interpretation of the requirements. Specifically,

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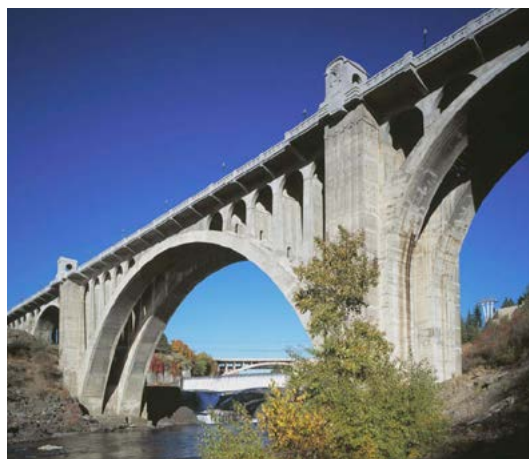
how the requirements affect compliance with the National Bridge Inspection Standards (NBIS) and how FHWA measures and reports on inspection program management.

In 2005, a revision to the NBIS was established to clarify the requirement that all bridges contained in the National Bridge Inventory (NBI) must, at a minimum, receive a routine inspection every 24 months. This means that if a structure was inspected in June 2010, then the next routine inspection would be due 24 months later in June 2012. This clarification to the regulation allows flexibility for bridge owners to inspect their structures any time within the given calendar month that the routine inspection is due, and be in full compliance with the regulations. There are cases when unusual circumstances arise and an inspection cannot be completed within the month that it is due. For those situations, FHWA allows an inspection re-schedule for the next calendar month may be considered “performed on time” if one of the following conditions is met:

1. Severe weather,
2. Concern for bridge inspector safety,
3. Concern for inspection quality,
4. The need to optimize scheduling with other bridges, or
5. Other unique situations.

For example, assume a bridge had a previous routine inspection in January 2009 and in January 2011 there were several snow events that made it impossible to access the bridge. For that inspection, the owner agency would be able to re-schedule the required inspection to February 2011. The unusual reason for the overdue inspection must then be documented on the bridge inspection report. When the next inspection is due 24 months later, it is based on the original inspection month of January. In this case, it would be due again for inspection in January 2013. Bridge owners must be aware that these unusual circumstances should not be used on a regular basis, but rather only used when a random and unexpected event occurs. If the bridge owner recognizes that seasonal events are delaying inspections on a consistent basis, adjustments should be made to the inspection schedule to ensure that inspections are performed on time in the future. Bridge owners are encouraged to contact the Washington State Department of Transportation (WSDOT) Highways & Local Programs (H&LP) Local Agency Bridge Engineer for clarification and concurrence

when employing and documenting these unusual circumstances. Additional guidance will be available in an updated version of the Washington State Bridge Inspection Manual (WSBIM) in December 2012. The above concepts on inspection frequency, and the use of unusual circumstances can be applied to all of an agency's structures that meet the requirements for a bridge inspection, such as routine inspections, fracture critical inspections, and underwater inspections.



A state's ability to consistently inspect their bridges on time affects whether the state is considered in compliance with the NBIS. Each year by April 1st, Washington State is required to submit all of that year's updated Bridge Inventory information to FHWA. Upon receiving this information, FHWA begins to analyze the data to determine compliance with the regulations. In this determination, one of the first checks completed is a comparison of the previous and current inspection dates. A state will be found either compliant, substantially compliant, or out of compliance depending on the number of inspections that were or were not performed within the required frequency interval. Any bridge inspection program, found to be out of compliance with the NBIS must develop and implement a Plan of Corrective Action (PCA) that is approved by both WSDOT and the FHWA Division Bridge Engineer to address the area(s) of non-compliance for the state or local agency program. If you have any questions about the requirements for bridge inspection frequency, please feel free to contact the Highways & Local Programs (H&LP) Local Agency Bridge Engineer at the contact information below:

Grant Griffin, P.E.
Local Agency Bridge Engineer
WSDOT-Highways & Local Programs
310 Maple Park Ave, SE
PO Box 47390
Olympia, WA 98504
Email: griffin@wsdot.wa.gov
Direct: 360-705-7870

FHWA Launches New Initiative to Help Local Public Agencies Manage Federal-aid Projects

The Federal Highway Administration (FHWA) recently launched a new information-sharing initiative designed to help local public agencies and state departments of transportation manage their Federal-aid Highway Program projects. The initiative, called Federal-aid Essentials for Local Public Agencies, offers an abundance of information about key aspects of the Federal-aid program on a single public website at www.fhwa.dot.gov/federal-aidessentials/index.cfm.

The website offers a central online library of informational videos and resources, designed specifically for local public agencies. Each video addresses a single topic, condensing the complex regulations and requirements of the Federal-aid program into easy-to-understand concepts and illustrated examples. The videos are relatively short at less than 10 minutes long, professionally narrated in non-technical language, and supported with engaging graphics and animation that give viewers the most essential content. The videos can be viewed in any sequence from any computer or mobile device with Internet access.

The website also has a State Resources button on the main page that provides access to a list of useful information, including individual state and FHWA local office LPA coordinator contacts and web links to state DOTs, state LPA manuals, local technical assistance program (LTAP) centers, and other helpful online resources. A drop-down menu on the main page, titled “I want to know about...,” helps users find information quickly and conveniently about common Federal-aid topics. The website is regularly updated and new features added to meet state DOT and LPA needs and requests.

You can read more about the Federal-aid Essentials initiative in FHWA’s *Public Roads* magazine at www.fhwa.dot.gov/publications/publicroads/12septoct/03.cfm.

For more information on this initiative, please e-mail the Federal-aid Essentials for Local Public Agencies program at LPA-feedback@dot.gov.

Bellingham's Innovative Urban Village Transportation Impact Fee Reduction Program Wins Award for Transportation Planning

By Chris Comeau, AICP, Transportation Planner, Bellingham Public Works

Since 1994, the City of Bellingham, WA has assessed development for transportation impact fees (TIF) to recover a proportional share of the City's investment in transportation infrastructure to accommodate growth. Despite regular complaints from developers, business owners, and community activists suggesting that TIFs are barriers to infill development, Bellingham's TIF rate is low compared to TIF rates charged in other Washington cities. This is confirmed by a study of TIF rates in 60 cities and 5 counties in Washington, revealing that Bellingham's TIF rates were in the lowest 30% and far below the average TIF in Washington State.

www.cob.org/documents/pw/transportation/2013-wa-tif-graph-and-chart.pdf

In 2010, in an effort to further promote comprehensive plan goals for mixed use urban infill and to create even more financial incentive, and reward, for new development in designated Urban Villages, Public Works transportation planners created Bellingham's Urban Village TIF Reduction Program. Importantly, the program is based on legally defensible practices using ITE trip generation methodology, research, and widely-accepted practices within the field of transportation planning and engineering.

www.cob.org/documents/pw/transportation/uv-tif-faq-2012.pdf

Citywide, Bellingham awards 100% TIF credit for previous uses, but in addition, Urban Village development is rewarded with an automatic 15% trip reduction for mixed use location and an automatic 7 to 10% trip reduction depending on proximity to high-frequency (15 min) public transit. Vehicle trips, and thus TIF, can be further reduced, up to 50% total, through purchase of bus passes, car share memberships, or other transportation demand management strategies. In 2013, the

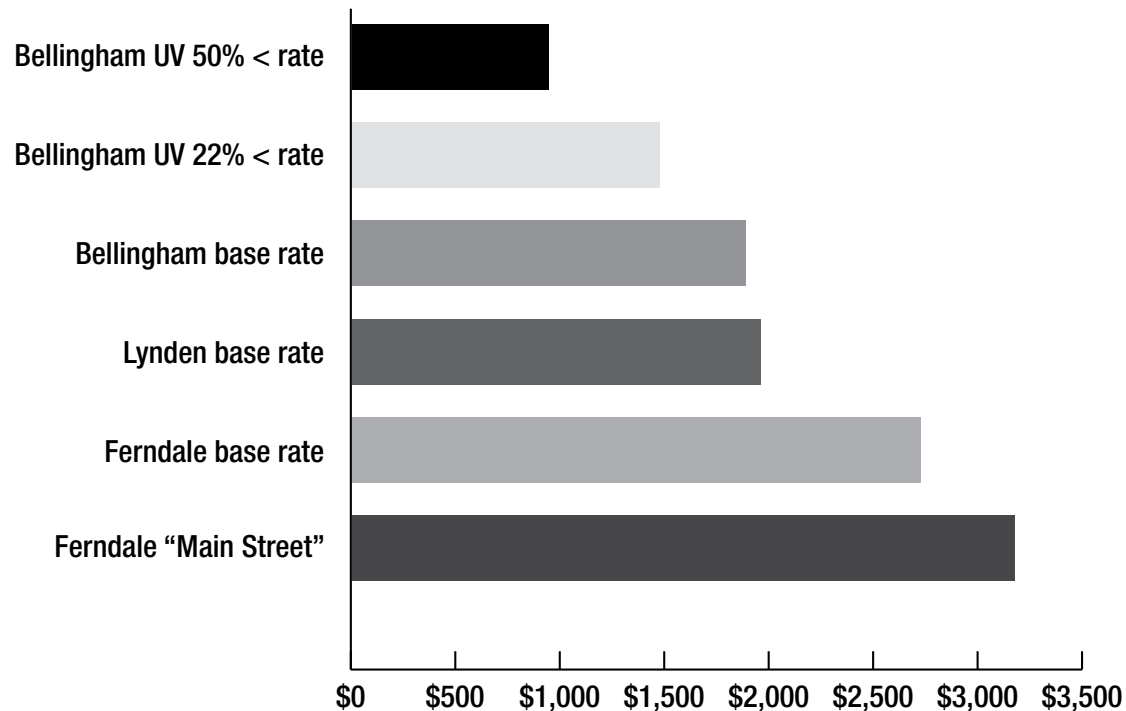
TIF rate for downtown Bellingham and other “Urban Villages” is 22-50% lower than other parts of Bellingham, 25% lower than Lynden’s TIF rates, and 50% lower than Ferndale’s “Main Street” TIF rate, which means that TIFs in Bellingham’s Urban Villages are lower than any other significant population center in Whatcom County.

City	Population	2013 TIF Base Rate	2013 TIF Per Square Foot of Development	2013 TIF Central Business District ^{1,2}	2013 TIF Central Business District 50% ³
Bellingham	77,000	\$1,925	\$1,925	\$1,502	\$963
Lynden	12,125	\$1,997	\$1,997	\$1,997	n/a
Ferndale	11,681	\$2,783	\$2,783	\$2,070 ⁴	n/a

Notes:

1. Bellingham CBD and “Urban Villages” = 22% to 25% automatic reduction
2. Ferndale charges \$3,243 TIF for 443-acre area including “Main Street” (CBD)
3. Bellingham CBD and “Urban Villages” can reduce TIF up to 50% via TDM
4. Ferndale allows 10% trip generation reduction in CBD for additional pass-by trips

2013 TIF Base Rates in Whatcom County's Largest Population Centers

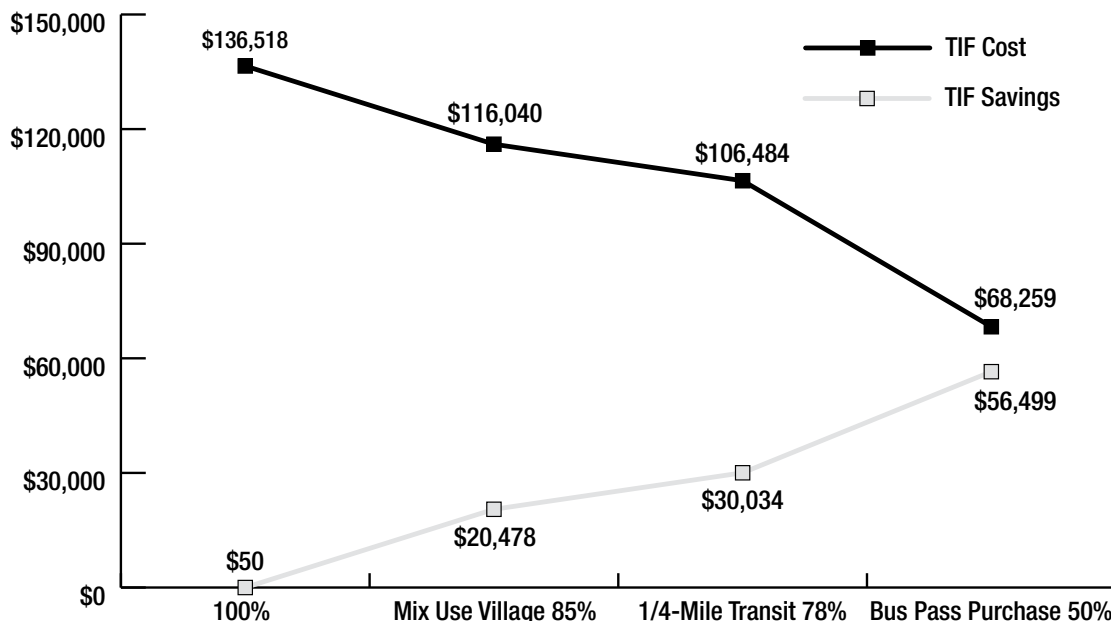


Since its implementation in 2011, Bellingham’s Urban Village TIF Reduction Program has saved developers and business owners tens of thousands of dollars in TIF assessments, simply by helping to fulfill the community’s adopted vision and policy emphasis on mixed use infill development and multimodal transportation.

www.cob.org/documents/pw/transportation/impact-fee-comparison-pie-charts.pdf

Bellingham's Urban Village TIF Reduction (Up To 50%) Resulting From Various Performance Measures

Case Study of 183 Multifamily Apartments in Downtown Bellingham



On October 12, 2012, at Washington State's American Planning Association conference in Olympia, WA, Bellingham transportation planners received the 2012 APA-PAW Award for Transportation Planning in Washington State for Bellingham's Urban Village TIF Reduction Program. While this award from the State planning organization is unlikely to change the opinions of those who have their own theories about TIF, it is clear validation from the planning profession that Bellingham has integrated goals for mixed use infill development, multimodal transportation, and economic development to create some of the most progressive TIFs in Washington.

Chris Comeau, Transportation Planner, can be reached at ccomeau@cob.org or (360) 778-7946.

WSDOT Draws Attention to the I-90 Snoqualmie Pass East Project

By South Central WSDOT communication staff

The 2012 construction season brought a number of highway improvement projects to Interstate 90 over Snoqualmie Pass, along with the potential for significant construction-related travel delays. The WSDOT construction managers tasked the communications and graphics teams with reaching a wide audience to explain the impacts drivers would face over the summer, and how they could plan ahead.



In order to grab peoples' attention, the team proposed combining storytelling and speed drawing into a short video to post to [YouTube](#). The video included key messages for the [I-90 projects](#), as well as important travel information needed before heading out the door, or while on the road.

It didn't take long for the video to start drawing attention. It was forwarded to WSDOT employees and Public Information Officers across the state, appeared on transportation, travel, and college websites, and it even showed up on the local news. Within a few months, the video had more than 10,000 views and that number continues to grow.

By thinking outside of the box, and utilizing the artistic abilities of fellow employees, WSDOT was able to produce a very successful product that achieved the goal of communicating an important message to a wide variety of people.

Warm Mix Asphalt Research Continues—Results Look Promising!

By Kim Willoughby P.E. WSDOT Research Office

What is Warm Mix Asphalt (WMA)?

Warm mix asphalt (WMA) refers to asphalt mixtures that are produced at temperatures approximately 50°F cooler than those typically used in the production of hot mix asphalt (HMA). Such drastic reductions have the obvious benefits of cutting fuel consumption and decreasing the production of greenhouse gases. In addition, engineering benefits potentially include better compaction on the road, the ability to haul paving mix for longer distances, extending the paving season by being able to pave at lower temperatures, and the incorporation of higher RAP percentages at reasonable mixing temperatures.



Currently, there are more than 30 WMA technologies available and are classified into three broad categories: (1) those using organic additives, including waxes; (2) those using chemical additives; and (3) those using water-based foaming processes. At present, at least 30 state departments of transportation (DOTs) have established specifications permitting the use of WMA. This rapid growth in WMA use naturally raises questions about WMA pavement mix design and construction processes and the pavements' long-term durability and performance.

The goal of the ongoing WMA research is to produce mixtures with similar strength, durability, and performance characteristics as HMA using substantially reduced production temperatures.

Washington State Research On Select WMA Projects

WSDOT and Washington State University (WSU) conducted a study to evaluate the performance of HMA and WMA mixes obtained from various field sites in the state of Washington. Different WMA technologies are examined in four separate projects; these technologies include Sasobit® and three water foaming technologies, Gencor® Green Machine Ultrafoam GX®, Aquablack™ and water injection. Performance tests were conducted on the cores and extracted binders to evaluate the resistance of HMA and WMA samples to fatigue and thermal cracking, rutting and moisture susceptibility. Additionally, the early-age field performance of WMA and HMA control pavements was compared.

Based on field observations, the results show that there are no differences between the WMA and HMA sections. The laboratory testing of the mix and binders is showing some differences between WMA and HMA in some cases, but since we don't have a large body of information on the performance testing of HMA, we are still trying to work through these differences, hence some of the NCHRP work that is ongoing.

The report is WA-RD 789.1, Evaluation of the Performance of Warm Mix Asphalt in Washington State, and can be found at: www.wsdot.wa.gov/research/reports/fullreports/789.1.pdf.

Though most of the national research is still in progress, the research is showing, at least in the short-term, that WMA is as good as or better than HMA. The research projects are working through some of the idiosyncrasies of testing, but in a few years, we will have a much better picture of the design, testing and performance of WMA.

Recently Completed or Ongoing Research through the National Cooperative Highway Research Program (NCHRP)

NCHRP 9-43: Mix Design Practices for Warm Mix Asphalt

This project has recently been completed. See www.trb.org/Main/Blurbs/Mix_Design_Practices_for_WarmMix_Aspalt_165013.aspx for the reports. The goal of this research was to determine if different mix design practices are necessary for WMA than HMA.

NCHRP 9-47A: Properties and Performance of Warm Mix Asphalt Technologies

The goals of this project were to: (1) quantify reductions in fuel consumption, plant emissions, and worker exposure to asphalt fumes, (2) determine if the performance of WMA is as good or better than HMA and (3) develop guidance for the design and construction of WMA.

Planned completion: Early 2013

NCHRP 9-49: Performance of WMA Technologies: Stage 1 – Moisture Susceptibility

The goals for this project include: (1) assessment of whether WMA technologies adversely affect the moisture susceptibility of flexible pavements and (2) develop guidelines for identifying and limiting moisture susceptibility in WMA pavements.

Planned completion: 2013

NCHRP 9-49A: Performance of WMA Technologies: Stage 2 – Long-Term Field Performance

The objectives of this research are to: (1) identify the material and engineering properties of WMA pavements that are significant determinants of their long-term field performance and (2) recommend best practices for the use of WMA technologies.

Planned completion: 2016

NCHRP 9-52: Short-Term Laboratory Conditioning of Asphalt Mixtures

The objectives of this project are to develop procedures and associated criteria for short-term laboratory conditioning of asphalt mixtures for mix design and performance testing to simulate the effects of (1) plant mixing and processing to the point of loading in the transport truck and (2) the initial period of performance. This work shall include production temperatures ranging from 240°F to 340°F.

Planned completion: 2014

NCHRP 9-53: Properties of Foamed Asphalt for Warm Mix Asphalt Applications

The research focuses on: (1) determining the key properties of foamed asphalt binders that significantly influence the performance of asphalt mixtures and (2) developing laboratory protocols for foaming of asphalt binder and laboratory mixing procedures.

Planned completion: 2014

NCHRP 9-55: Recycled Asphalt Shingles in Asphalt Mixtures with Warm Mix Asphalt Technologies

The objective of this research is to develop a design and evaluation procedure that provides acceptable performance of asphalt mixtures incorporating WMA technologies and recycled asphalt shingles (RAS), with and without reclaimed asphalt pavement (RAP), for project-specific service conditions.

Planned completion: 2016

Other Resources on WMA:

NCHRP Research Results Digest 370

onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rrd_370.pdf

WMA Best Practices (NAPA Publication)

store.asphaltpavement.org/index.php?productID=552

NCAT

www.eng.auburn.edu/research/centers/ncat/

Caltrans HVS Testing

www.ucprc.ucdavis.edu/PDF/UCPRC-RR-2009-02.pdf

Ways to Help Your Federal Aid Project Run Smoothly (OR . . . Be Careful What You Wish For!)

By H&LP Staff, HQ & Region

This is the Second Article of a Three Part Series (Read the Whole Article at www.wsdot.wa.gov/LocalPrograms/LTAP/News.htm).

This information is being provided to help increase awareness of what to look for, and what to avoid, while working on your projects.

Using Federal Highway Administration (FHWA) funding on public works projects is different than other federal funding you may be familiar with. Because of the requirements associated with FHWA funding, it is counterproductive to add a small amount of FHWA funds to a large project. One dollar of FHWA funding added to a project “federalizes” the entire project and supersedes or adds to the other state or federal funding source requirements. Your Region Local Programs Engineer (LPE) can guide you through the FHWA process. If you are already familiar with the process and its requirements, you already know there are many different ways to lose your funding.

In the last newsletter, we covered information that is most troublesome in the preliminary engineering/planning parts of a project. This quarter we pick up with tips about the Environmental and Right of Way portions of a project.

Environmental

You must have environmental clearance before proceeding with final design, utility relocation, or Right of Way acquisition (when using Federal funds for Right of Way acquisition).

- You may use other funding sources for Right of Way acquisition, provided you follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act requirements. See [Chapter 25](#) of the LAG.

- All changes to the project, such as scope of work, construction limits, or funding **must be evaluated in respect to your environmental document**. To do this, update the “Scope of Work” description or “Beginning and Ending MP” portions of your Environmental Classification Summary (ECS) and resubmit the updated document to your Region LPE. If you have funding changes, such as funds from another federal agency (HUD, FTA, FAA, etc.) contact your Region LPE immediately so that interagency coordination can begin.
- You must meet all National Environmental Policy Act (NEPA) requirements. See [Chapter 24](#) of the LAG and the [ECS Handbook](#). Remember to include staging areas in your NEPA “footprint”.
- Obtain all required permits and adhere to their requirements.
 - » If there are changes to the work or the method of work, you must verify that the new, changed, or deleted work is still within the approved permit conditions. When changes occur, coordinate with the permitting agency before start of work. A new or revised permit may be required.
 - » Implement planned/required restrictions and perform environmental mitigation work.
 - » Document the required permit mitigation work thoroughly.
 - » Wait for approval of Area of Potential Effect (APE) before starting Section 106/archaeology work.

Design

[Chapter 42](#) of the LAG Manual is the guide for City and County projects. The City and County Design Standards Committee is comprised of representatives from Washington Cities, Counties, Washington State Department of Transportation (WSDOT) Design, WSDOT Highways and Local Programs (H&LP), Federal Highway Administration (FHWA), Association of Washington Cities (AWC), and the County Road Administration Board (CRAB).

Consultant advertisement and selection are a major factor for many local agencies using federal funds for part or all of their projects. Common problem areas are:

- Consultant Advertisement and Selection
 - » Include Title VI language in all advertisements for consultant services. For Title VI language, see LAG [Chapter 28](#), appendix 28.71, Exhibit 2A. The **exact** language shown in Exhibit 2A must be used.
 - » Be sure that consultants are licensed or qualified in their field. Someone that is a licensed PE may not have experience in traffic engineering so be sure to check that the consultant has the expertise to meet your project needs on their staff BEFORE you process an agreement.
 - » Any Consultant Agreement over \$10,000 must use the Standard Consultant Agreement from the LAG, [Appendix 31.99](#)
 - » Include language in the consultant agreement about open, competitive, qualification-based selections.
 - » Make sure the consultant agreement covers the time realistically needed to complete work on the project.
 - » Supplement consultant agreements with an addendum when:
 - » The scope or schedule of services changes (added work or changed needs).
 - » Submit supplements to extend the agreement BEFORE the original contract expires. Failure to supplement the original agreement prior to the expiration date jeopardizes your federal funds and will require that you start over with the advertisement, evaluation, and award of the agreement. Your agency may also have to repay expenses incurred after the original agreement expires.

Once the decisions about where to build your project have been made and approved, the process of finalizing the plans, specifications, and estimate (PS&E) begins. PS&E documents are used to advertise, award, and administer a construction contract. The PS&E must be submitted to your Region LPE for review before you may advertise for bids.

- Designing and Preparing Plans, Specifications, and Cost Estimates (PS&E):
 - » Design to Correct Standards/Guidance, Laws, and Rules.
 - » Americans with Disabilities Act (ADA).
 - » Install or replace curb ramps where needed; at correct widths and slopes. All new facilities must be in full compliance.
 - » Lack of funds is not an acceptable reason to issue a “maximum extent feasible” document (WSDOT Design Manual, Chapter [1510](#)).
 - » Manual on Uniform Traffic Control Devices (MUTCD).
 - » AASHTO, WSDOT Standards.
 - » Document design exceptions/approvals/Public Interest Findings.
 - » When Preparing Plans, Specifications, and Cost Estimates (PS&E) remember:
 - » All projects advertised for bids must include
 - » The [FHWA 1273 Specifications](#) (Federal Aid Contract Provisions) and amendments, found after Appendix 44.78 in the LAG. Failure to incorporate this entire set of specifications will result in loss of your federal funds.
 - » Buy America Specifications, (General Special Provision [GSP 1-06](#)).
 - » Disadvantaged Business Enterprise specification (either a “no goal” or a “mandatory goal”), (General Special Provision [GSP 1-07.11](#)).
 - » Title VI language, LAG [Chapter 28](#), appendix 28.71, Exhibit 2A.
 - » Prevailing wage rates. You must include both State and Federal Wage Rates in your contract. At this time, wage rates must be in printed form and included in the bid documents.
 - » [Wage Rates](#) must be current within ten days of bid opening. Some exceptions do apply. See LAG section [44.21](#), item b, for information on wage rate requirements and exceptions.

- » When the PS&E is complete send a copy to your region LPE for review and concurrence.
- » When comments are returned, incorporate them into the PS&E prior to advertising. Failure to do so could result in “non-participation” and loss of federal dollars . . . maybe all of them.

Right of Way (R/W) Phase

Failure to comply with any of the requirements during the Right of Way process will jeopardize your federal funding for the entire project. It may also prevent the use of federal funds on future projects through the same right of way. . . . as in, through the end of time, so be careful. Before you undertake any action regarding right-of-way, request assistance from your Region LPE who will contact the WSDOT Region Local Agency Right of Way Coordinator for your area.

Due to the extensive knowledge and experience required to successfully adhere to Right of Way requirements, all individuals appraising and acquiring right of way must be on the WSDOT Approved Appraiser List.

- To use FHWA funds in the R/W phase of a project, you must have each of the following prior to FHWA R/W authorization:
 - » Inclusion in the STIP with funding shown for the Right of Way phase,
 - » LAA or LAA supplement,
 - » QPR, if necessary,
 - » Documented cost estimate, including true cost estimate,
 - » NEPA approval,
 - » An approved relocation plan (where applicable),
 - » An approved right of way plan (when applicable), and
 - » Project Funding Estimate (LAG Appendix [25.174](#)) for the Right of Way Phase.
- If the only work outside the right of way includes relocating utilities, or work that requires a construction easement, the agency needs to note this on the project prospectus and Environmental Classification Study (See LAG Appendix [24.71](#)).

» Permits and Easements are generally considered Right of Way acquisitions. In this circumstance you need a Right of Way certification.

- Wait for Individual utility agreements and project funding authorization before relocating utilities.
- Wait for environmental approval and/or property appraisals before communicating with property owners.
- Follow the Uniform Relocation Assistance and Real Properties Act and your agency's approved Right of Way Procedures during Right of Way acquisition and relocation. This includes upgrading from certification 3 to certification 2 or 1 before bid opening.

In the next Issue we will conclude this series.

Or read the entire article [HERE](#) right now.

Call for Projects for Federal Safety Funding

Jurisdictions in Washington State are eligible for \$25 million in federal Highway Safety Improvement Program funds through Washington State Department of Transportation's 2013 Quick Response Safety Program. Jurisdictions with fatal or serious injury collisions may apply for one or more projects. Funding is available for the construction phase of a project that meets the eligibility criteria.

See www.wsdot.wa.gov/LocalPrograms/Traffic/QuickResponseSafetyQA.htm to learn more and apply.

Urban Street Design Guide

By Susan Bowe, WSDOT Highways and Local Programs

In October 2012, the National Association of City Transportation Officials (NACTO) published an overview of the Urban Street Design Guide, which they plan to release next summer. The guide lists five principles of urban street design:

1. Streets are public places
2. Great streets are great for business
3. Design for safety
4. Streets can be changed
5. Act now (to implement projects)

The guide will also present strategies and design guidance that practitioners can use to shape streets into streets that support multiple transportation modes and encourage other planned activities for people, such as dining, shopping, gathering, and playing. The concepts come from real life examples in the United States and abroad. Learn more at: nacto.org/urbanstreetdesignguide-overview.

This new guide does not override the City and County Design Standards established by RCWs 35.78.040 and 36.86.080.



*Photo courtesy of Pedestrian & Bicycle Information Center
Dan Burden, photographer.*

Buy America Requirements

Summary of MAP-21 Provisions

We all know there is a new Transportation funding bill. The new act, Moving Ahead for Progress in the 21st Century, or MAP-21 as it has become known, expands the National Highway System (NHS) in Washington more than 1,190 miles, many of them owned and maintained by local agencies. We have been combing through the new legislation looking to understand what was enacted. In dialogue between the Federal Highway Administration, State Departments of Transportation, and Local Agencies across the country, we have begun to analyze the meaning of the new legislation. When clarification is needed a “Summary” is compiled and forwarded to everyone involved, the information we are sharing in this article is one such summary. As it says in the fine print, all of this is subject to change, so read it and plan but stay tuned in too.

We are starting with clarification on an often confusing aspect of local agency work, Buy America Requirements. Specifically Buy America as it relates to the UTILITY work, an often misunderstood requirement under the best circumstances. Throw in a Utility operating under a franchise and things really become murky. We will share other summaries as they become available.

Summary of MAP-21 Provisions

The information contained within this summary is the current guidance we are receiving from FHWA and is subject to change. Text from section 1518 of MAP-21;

“(g) Application to Highway Programs. – The requirements under this section shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.”

The key to this change is to recognize that Buy America now applies to the full scope of a project cleared under NEPA if any part is federally funded. There is one exception related to private utilities under franchise agreements, See Example 4 for details.

Example 1: Assume you have a project that was cleared under NEPA as a Categorical Exclusion and is to be constructed in 2 phases. The first phase is to be federally funded and the second phase to be funded wholly through state and local funds. In this case Buy America applies to both contracts.

The effective implementation date for the new provision is October 1, 2012. Therefore, all contracts, awarded on or after October 1, 2012 are subject to the Buy America provisions. Failure to do so renders all contracts within the scope of the NEPA document ineligible for Federal-Aid funding. Examples 2, 3, and 4 illustrate how this could apply to you.

Example 2: Let's change the funding assumptions from Example 1 so the first phase is locally funded and the second phase is to be federally funded. If Phase 1 is awarded on October 15th, 2012 then the Buy America provisions would apply to that contract, and would need to be met in order to keep Phase 2 eligible for Federal funding.

Example 3: Go back to our original funding scenario where Phase 1 is federally funded and Phase 2 is locally funded. If Phase 1 is awarded on October 15th, 2012 then the Buy America provision would apply to that contract just as they always have for a Federal-Aid contract. Now assume Phase 2 is awarded on October 15th, 2013. Since Federal-aid funds were used on Phase 1, then Phase 2 is subject to the same Buy America provisions even though no Federal funds are being used. Failure to do so would make Phase 1 ineligible and the Federal-funds would be removed.

Example 4: Suppose relocation of a private utility is covered under the scope of the NEPA document, but the work is being done by the utility company concurrent with Phase 2. Since the scope of work being done by the utility company is covered under the NEPA document, and Federal-Aid funds were used in Phase 1 then the work done by the utility company is subject to the Buy America requirements regardless of fund source. This excludes work being completed by the utility under a franchise agreement at the utility's cost that is not eligible for federal aid. However, the added cost to move utilities from overhead to underground is generally an eligible expense and Buy America requirements will apply to the eligible work. See 23 CFR 645.103(d), which describes under what conditions Buy America provisions of 23 USC 313 would apply to this work.

Example 5: Preliminary engineering and or right of way acquisition was completed using federal funding; the construction phase is being funded by local or other non-federal funds. Buy America requirements will apply to all aspects of the construction. With of course some exceptions; if the PE and RW were authorized prior to October 1, 2012 and there have been no new consultant contracts after this date, the requirement would not apply to non-federally funded contracts simply due to federal funds being used for preconstruction.

For project's with complex elements, staging or other issues that make interpretation of the requirements unclear please contact your local programs engineer for assistance.

The applicability of the new provision will not be retroactive to contracts awarded prior to October 1, 2012.

FHWA anticipates issuing a Notice of Proposed Rule Making in 2013 to address the regulatory language. In the meantime, guidance and Q's & A's can be found on FHWA's website located here: www.fhwa.dot.gov/map21/qandas/qabuyamerica.cfm.

Additional Sources of Information

FHWA's Construction Program Guide Covering Buy America, includes links to additional guidance.

www.fhwa.dot.gov/construction/cqit/buyam.cfm

Past LTAP Articles related to Buy America requirements;

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www.wsdot.wa.gov/NR/rdonlyres/110096C3-12BB-40A3-A365-F99DBF936E66/0/2011Summer.pdf

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www.wsdot.wa.gov/NR/rdonlyres/267F22B6-06C6-4189-A0E8-7EBFBD8B5D77/0/2012Winter.pdf

LTAP Publications and Online Resource

LTAP Technical Publications

LTAP provides free, printed technical transportation publications that can be ordered and shipped to local agencies. Visit [WSDOT's LTAP website](#) for a list of available publications and how to order them.

Retired Professionals Website

[The RetiredProfessional program](#) provides a listing of retired public works individuals interested in part-time or full-time employment with agencies needing experienced professional employees.



Save the Date

2013 Pacific Northwest Bridge Inspectors' Conference

Tuesday 4/23/2013 – Thursday 4/25/2013

Hilton Portland & Executive Tower

921 Southwest 6th Avenue

Portland, Oregon 97204

Conference Description

- The states of Oregon, Washington, Idaho, Alaska, and the FHWA are jointly hosting the 2013 Pacific Northwest Bridge Inspectors' Conference.
- The conference provides a forum for bridge inspectors and managers to share information, innovations, ideas, and best practices.
- Additional opportunity will be provided for the attendees to gain a current national perspective on Bridge Inspection from AASHTO and FHWA.
- The conference will provide continuing education for Bridge Inspectors'.

Who Should Attend?

The intended audience is city, county, state, federal, and consultant bridge inspectors and bridge managers who are responsible for:

- Bridge Inspection Policy and Procedures
- QC/QA
- Preparation and Maintenance of Bridge Inventories
- Bridge Inspections
- Load Ratings
- Bridge Management Systems
- Bridge Product Vendors

* Please see the website or more information at: cm.wsu.edu/BridgeInspectors

** For conference questions, please contact Dana Colwell at: Dana.Colwell@wsu.edu

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The Local Technical Assistance Program (LTAP) is a national program financed by the Federal Highway Administration (FHWA) and individual state transportation departments. Administered through Centers in each state, LTAP bridges the gap between research and practice by translating state-of-the-art technology into practical application for use by local agency transportation personnel.

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